

# IN THE UNITED STATE PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Vogel et al.

Serial No.:09/458,280

Filed: December 10, 1999

For: Therapeutic Apparatus for Treating  
Ulcers

§ Examiner: Danton DeMille  
§  
§ Group Art Unit: 3764  
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§ Attorney Docket No.: VAC.331.1  
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Box DAC  
Commissioner for Patents  
Washington, D.C. 20231

## STATEMENT REGARDING UNINTENTIONAL DELAY

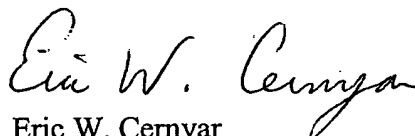
The undersigned believes that the most succinct way to explain why the Applicants' delay in filing the petition to revive was unintentional is to summarize the chronology of events in the table below.

Dec. 10, 1999	Outside counsel Mr. Wayne Colton, Reg. No. 40,962, files application, declaration and power of attorney on behalf of client.
Oct. 4, 2000	PTO mails office action to Mr. Colton. Client believes Mr. Colton is prosecuting action.
Oct. 22, 2001	PTO mails notice of abandonment. Client does not receive copy of the notice of abandonment.
on or about January 2, 2002	Client calls PTO seeking status information on patent application and discovers, to its dismay, that the application has gone abandoned (but client does not learn why).
January 29, 2002	Client faxes power to inspect and copy to agent in order to obtain copy of file wrapper to enable it to prepare petition to revive.
Early February, 2002	Agent states that power to inspect not approved by PTO.
February 12, 2002	Client faxes power of attorney in parent application, along with initial transmittal letter in the instant application, establishing Will Quirk as the second attorney of record
February or March, 2002	Agent informs client that power to inspect was again denied by the PTO
March or April, 2002	Undersigned patent attorney is mistakenly led to believe that another patent attorney would follow up on efforts to obtain file wrapper and

	prepare the petition to revive.
May 24, 2002	The undersigned's misunderstanding is corrected. The undersigned promptly calls the Patent Assistance Center and learns that the application went abandoned because no response to the October 4, 2000, Office Action was received. Undersigned prepares response to office action, petition to revive, revocation of power of attorney, new power of attorney, 3.73(b) statement, this statement, and associated papers.
May 24-June 7	Client obtains necessary signatures and files response and petition.

The Undersigned respectfully requests that the petition be granted. *See In re Lonardo*, 17 U.S.P.Q.2d 1455, 1458 (Comm'r for Patents 1990) ("When a client does not knowingly and freely acquiesce in his attorney's neglectful conduct, but instead is misled into believing that the attorney is industrious, dismissal is not only a harsh step but one for which the circumstances provide little support for an agency theory as a rationale.").

Respectfully submitted,



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